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EXTRAORDINARY

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NEW DELHI, WEDNESDAY, DECEMBER 8, 1999/AGRAHAYANA 17, 1921

भारत निर्वाचन आयोग

अधिसूचना

नई दिल्ली, 7 दिसम्बर, 1999

आ.अ. 172 (अ).—निर्वाचन आयोग 1997 को निर्वाचन अर्जी मं० 5/96 में ग्वालियर स्थित मध्य प्रदेश उच्च न्यायालय के तारीख 21 जुलाई, 1999 के निर्णय और आदेश के विरुद्ध दाखिल की गई 1997 की सिविल अपील सं० 7480 में तारीख 26 अक्टूबर, 99 को दिए गए भारत के उच्चतम न्यायालय के निर्णय को सोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 116 ग की उपशारा (2) के खण्ड (ख) के अनुसरण में इसके द्वारा प्रकाशित करता है।

[सं० 82/म०प्र०-ल००स०/(5/96)/97]

आदेश से,

एल. एच. फारकी, सचिव

ELECTION COMMISSION OF INDIA NOTIFICATION

New Delhi, the 7th December, 1999

O.N. 172 (E).—In pursuance of Clause (b) of Sub-Section (2) of Section 116 C of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the Judgement dated the 26th October 1999 of the Supreme Court of India in Civil Appeal No. 7480 of 1997 filed against the Judgement and Order dated 21-7-99 of the High Court of Madhya Pradesh at Gwalior in Election Petition No. 5 of 1996.

IN THE SUPREME COURT OF INDIA
 CIVIL APPELLATE JURISDICTION
 Civil Appeal No. 7480 of 1997

Devendra Nath Gupta

...Appellant

Versus

Returning Officer, Const.-3, Gwalior & Ors.

... Respondents

ORDER

The High Court dismissed the election petition on the ground that it was filed out of time.

The election was held on the 7th of May, 1996. The result was declared on 10th May, 1996. The Registry of the High Court was closed until 23rd June, 1996 because of the summer vacations. On the next day, i.e., 24th June, 1996, the petition was filed before the Bench of the High Court at Gwalior and the security deposit was made. It is the case of the petitioner (appellant) that the election petition was returned to him at 4.00 p.m. by the Registrar of the High Court telling him to file it with the Bench at Jabalpur. Accordingly, on 25th June, 1996, the petitioner filed the election petition at Jabalpur. On that day as the High Court found in the order under challenge, it was out of time by one day.

It is not in dispute that the Bench of the High Court which had jurisdiction to entertain the election petition was the Bench at Jabalpur. When the election petition was filed at Jabalpur, it was out of time. The fact that it had been filed before the Bench of the High Court at Gwalior, which had no jurisdiction, and that the security deposit had been made there within time can make no difference to the position. The election petition was filed out of time and was rightly dismissed.

The civil appeal is dismissed.

In the event that the petitioner applies for return of the security deposit to the High Court, the application shall be duly considered in accordance with law.

No order as to costs.

(S.P. Bharucha)

(M. Jagannadha Rao)

(V.N. Khare)

New Delhi,

October 26, 1999.

[No.82/MP-HP/(5/96)/97]

By Order.

L.H. FARUQI, Secy.